

An
Bord
Pleanála

Board Order
ABP-312544-22

Planning and Development Acts 2000 to 2021

Planning Authority: Louth County Council

Planning Register Reference Number: 21396

Appeal by Trinity Gardens Residents Association care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin against the decision made on the 15th day of December, 2021 by Louth County Council to grant subject to conditions a permission to Urban Life (GSD) Limited care of Stephen Ward Town Planning and Development Consultants Limited of Jocelyn House, Jocelyn Street, Dundalk, County Louth in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition and clearance of all buildings and structures on site including demolition of five existing houses and a domestic garage and outbuildings associated with Swan Yard and construction of a 'Build to Rent' residential development which varies in height from one to two storeys along the western and northern boundaries and from three to seven storeys on George's Street, comprising 57 number apartments (six number studio, 34 number one bed and 17 number two bed) and communal residents support services and amenities with a central courtyard and car parking area to contain 17 number car parking spaces. The development includes the creation of a new vehicular entrance off the local access road to Trinity Gardens to the south of the application site including a new footpath and public lighting along the southern site boundary and the creation of a public open space onto George's Street including footpath widening. This application also provides for an ESB substation, undergrounding of overhead lines

where required, landscaping, bin storage, bicycle parking/storage, and all associated site development works and boundary treatments, all at 26, 28, 29, 30 and 31 George's Street and Trinity Gardens, including lands known as Swan Yard, Drogheda, County Louth. The site is bounded to the east by George's Street, to the south by Trinity Gardens, to the west by the rear gardens of dwellings within Trinity Gardens and to the north by a property fronting George's Street and its associated rear garden.

The proposed development was revised by further public notices received by the planning authority on the 19th day of November, 2021 referring to significant further information submitted to the planning authority including alteration of the application site boundary to include the adjoining public footpaths and roads. A recent addition to the record of protected structures Ref: DB 402 - the entrance walls, railings and name plaques at the entrance to Trinity Gardens, the northern section of which fall within the application site has also been addressed. The proposed development has been amended to take cognizance of this change of status and it is now proposed to retain in-situ a section of the northern boundary wall with 'Trinity Gardens' including the name plaque. A further section of the wall will be carefully taken down and rebuilt to the back of a new pedestrian footpath in all its details including the wall top railings. Sections of the wall will be removed to facilitate the vehicular entrance (as per original submitted drawings) and also to provide two pedestrian entrances, one of which will be in the position of the existing garage structure to be removed (not part of the protected structure), the second at the westerly end of the proposed pedestrian footpath. Consequential alterations to the proposed development including to parts of the internal layout, elevations and balconies and to the pedestrian entrance off George's Street.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to:

- (a) the residential zoning objective for the site,
- (b) National and local policy objectives which support the redevelopment of infill/brownfield sites,
- (c) Section 28 Ministerial Guidelines on Urban Development and Building Heights (2018) and Design Standards for New Apartments (2020),
- (d) the location of the site within a well serviced urban area in close in proximity to the Drogheda Town centre and where public transport is available, and
- (e) the pattern of development in the area and the nature, scale, and design of the proposed development,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would provide an adequate level of residential amenity for future residents, would not seriously injure the residential or visual amenities of the area, would not adversely impact on the character and setting of the entrance walls, railings, and nameplate at the entrance to Trinity Gardens (a Protected Structure), and would be acceptable in terms of the safety and convenience of pedestrians and road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted the key aspects of the Protected Structure would be conserved *in situ*, and considered the limited modification of and demolition of a portion of the Protected Structures to be justified in the circumstances where this intervention enables safe access to a development that is appropriate to this zoned and serviced site in the centre of Drogheda.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars received by the planning authority on the 19th day of November, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The 57 number build-to-rent units hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

3. Prior to commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first apartments within the scheme.

Reason: In the interest of the proper planning and sustainable development of the area.

4. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit to, and agree in writing with, the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and of clarity.

5. The rooms/spaces denoted for use as resident support facilities, services and amenities on the plans submitted shall be retained for these functions only. All rooms/spaces shall be appropriately furnished and available for use prior to occupation of the proposed build-to-rent accommodation. Details of the proposed fit-out of these spaces shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure that appropriate residential amenities and facilities are provided for future residents in accordance with Special Planning Policy Requirement 7 of the Sustainable Urban Housing: Design Standards for New Apartments 2020.

6. Prior to commencement of development, the developer shall:
- (a) provide for the appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works, and
 - (b) submit to and agree in writing with the planning authority, a full method statement, prepared by a suitably qualified professional, detailing the methodology, design, and specifications of all works to the protected structure.

The works shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht (2011).

Any difficulties encountered in the course of the works to the protected structure and their proposed resolution or modifications to method statements proposed shall be agreed in writing with the planning authority, before the modification is carried out.

Reason: To protect Architectural heritage in the interest of the common good and the proper planning and sustainable development of the area.

7. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed buildings, surface materials and public realm finishes shall be submitted for written agreement of the planning authority.

Reason: In the interest of visual amenity.

8. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

Reason: In the interest of amenity.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing overground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

11. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

12. A minimum of 20% of all car parking spaces should be provided with electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date.

Reason: To provide for and future proof the development such as would facilitate the use of electric vehicles.

13. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

14. (a) The site shall be landscaped in accordance with the Landscape Proposals Plan (drawing number 6916-L-201A) received by the planning authority on the 19th day of November 2021 and the Landscape Management and Maintenance plan, prepared by Parkhood Chartered Landscape Architects received by the planning authority on the 12th day of April 2021.
- (b) The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interests of residential and visual amenity.

15. All mitigation measures in respect of site clearance and buildings works site development and the site commissioning as detailed in the Bat Assessment prepared by Bat Eco services shall be fully adhered to.

Reason: In the interest of protecting the environment and to address any potential impacts on Biodiversity.

16. (a) The submitted external lighting scheme shall incorporate all mitigation measures as set out in the Bat Assessment prepared by Bat Eco Services and shall be reviewed by an ecologist to ensure its design is in accordance with guidance pertaining to bats and that the scheme is signed off by an ecologist/bat specialist.
- (b) Confirmation of any amendments to the lighting scheme shall be agreed in writing with the planning authority prior to commencement of development.
- (c) The agreed public lighting scheme shall be provided and commissioned prior to the making available for occupation of any residential unit within the development.

Reason: To conserve bat species, which are afforded a regime of special protection under the Habitats directive (92/43/EEC), by avoiding light pollution and to ensure a satisfactory standard of development.

17. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably qualified archaeologist who monitor all site investigations and other excavation works.
 - (c) should archaeological material be found during the course of archaeological monitoring, all work which might affect that material will cease pending agreement with the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht to how it is to be dealt with, and
 - (d) all archaeological deposits/features, within the area where groundworks will occur, which were recorded during previous test excavations, shall be fully archaeologically planned, photographed and excavated by a suitably qualified archaeologist, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained.

All costs of archaeological work necessitated by, or arising from, the development shall be borne by the developer.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

18. For the purpose of historical records, a thorough and detailed historic building survey of properties numbers 29, 30 and 31 George's Street shall be undertaken by a suitably qualified professional, which shall include detailed drawings and photographs.

This survey shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of recording the architectural and industrial archaeology present on site.

19. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects," published by the Department of the Environment, Heritage and Local Government in July, 2006.

Reason: In the interest of sustainable waste management.

21. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

22. The construction and demolition of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) the routing of construction traffic to and from the construction site,
- (b) the location of parking for site workers during the course of construction,
- (c) location of the site and materials compound(s) including areas identified for the storage of construction refuse,
- (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, and
- (e) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels.

A record of daily checks that the works are being undertaken in accordance with the Construction and Demolition Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of public safety and residential amenity.

23. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

Reason: In the interests of orderly development and the proper planning and sustainable development of the area.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.


Reason: To ensure the satisfactory completion of the development.

25. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application or the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Stephen Brophy

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 25th day of May 2023